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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/416,210	10/08/1999	WILLIAM LANE	ESPD:177/GLE	5873

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EXAMINER
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DEXTER, CLARK F

ART UNIT	PAPER NUMBER
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3724

*22*

DATE MAILED: 04/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

84

# Office Action Summary

Application No.

09/416,210

Applicant(s)

LANE ET AL.

Examiner

Clark F. Dexter

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 45-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 45-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. The request for reconsideration filed on January 23, 2004 has been received.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 45, 46, 48-50 and 52, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Theising, pn 5,181,446 (hereafter Theising '446).

Theising '446 discloses a fence assembly as well as a table saw with every structural limitation of the claimed invention as best understood from applicant's disclosure including a fence channel (e.g., 17); a head assembly (e.g., 15) including a housing and a locking handle (e.g., 69) which extends from a rotatable portion (e.g., the rotatable portion is designated by the cross-hatched portion surrounding the threaded portion in Figure 2, wherein this rotatable portion is shown in Figure 1, is rotatable with respect to both annular bearing portions, and extends through both annular bearing portions), the locking handle having a single piece construction; a locking pawl (e.g., 43) of a single piece construction; and a rod (e.g., 55). Further, Theising '446 discloses two annular bearings (e.g., 65). As best understood from Theising '446, there is a round portion (e.g., 65) on each side of the threadable interconnection (61) of rod (55). These

Art Unit: 3724

bearing portions (e.g., 65) are clearly annular since they are generally ring shaped and include a round outer surface which slides against a curved element (67) and an opening through which the rotatable portion extends.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Theising, pn 5,181,446 (hereafter Theising '446).

Theising '446 lacks the locking handle being constructed out of injection-molded plastic. However, the Examiner takes Official notice that it is old and well known to construct parts from injection-molding to gain well known benefits including easier and less expensive manufacturing and reduced weight. Therefore, it would have been

Art Unit: 3724

obvious to one having ordinary skill in the art to construct the handle 69 of Theising '446 by injection-molding for the well known benefits including those described above.

6. Claim 51 rejected under 35 U.S.C. 103(a) as being unpatentable over Theising, pn 5,181,446 (hereafter Theising '446) as applied to claim 50 above, and further in view of Tautz, pn 1,938,548 (hereafter Tautz '548)

Theising '446 discloses a fence assembly with almost every structural limitation of the claimed invention including a microadjust assembly, wherein the microadjust assembly includes a knob handle (e.g., 95), a bumper (e.g., 101), a spring (e.g., 97). Theising '446 lacks the bumper comprising an elastomeric material, specifically rubber, and defining a substantially smooth outer surface and cooperating with a smooth surface on the rail. Tautz '548 discloses that it is well known to provide a bumper having a smooth surface which cooperates with the smooth surface of the fence (see page 5, lines 56-84). Such a configuration provides well known benefits including ease and reduces costs of manufacture since cooperating teeth do not have to be formed in the bumper and rail. Therefore, it would have been obvious to one having ordinary skill in the art to provide a bumper having a smooth surface which cooperates with the smooth surface of the fence. Further, regarding the material of the bumper, the Examiner takes Official notice that it is old and well known in the art to make such friction-type gear wheels from an elastomeric material, particularly rubber, to enhance the friction grip between the cooperating surfaces. Therefore, it would have been obvious to one having ordinary skill in the art to make the bumper from an elastomeric

Art Unit: 3724

material, including rubber, to gain the well known benefits including that described above.

### ***Response to Arguments***

7. Applicant's arguments filed January 3, 2004 have been fully considered but they are not persuasive.

First, it is respectfully requested that applicant submit photos of applicant's invention as disclosed in the present application showing the specific structure of the head assembly, particularly the bearings, the handle cam and the housing.

Second, in applicant's arguments in the fourth paragraph on page 3 of the response, and in the arguments of section iii of the response, applicant argues that Theising '446 discloses a spherical rotating portion and thus does not meet the claimed limitations directed to the rotating bearing portion. The Examiner respectfully disagrees with applicant's analysis. As applicant is well aware, applicant is entitled to be his/her own lexicographer. Theising '446 has chosen to describe the bearing structure disclosed therein as being "spherical." However, it is clear, based on the drawings of Theising '446, particularly Figure 1, that the bearing structure disclosed in Theising '446 is not "spherical" in the conventional sense of the term. No such "spherical" shape is disclosed. Rather, Theising '446 discloses two bearing portions that may otherwise be described as having a plate-like shape as viewed in plan in Figure 1, and which have a rounded edge or side as shown in Figure 2, for example.

In the paragraph bridging pages 3-4 of the response, applicant argues that the “structure recited in the present claims seeks to avoid this direct contact with the rotating portion of the locking handle.” The Examiner respectfully disagrees. Applicant’s structure, particularly the bearings thereof, disclose this precise structure; specifically, applicant’s invention discloses bearings 48 that are in contact with the housing to provide for the eccentric action to lock the locking pawl.

In applicant’s remarks in section iv of the response, applicant argues that the “heavy emphasis on Figure 1 of Theising is misplaced as Figure 1 of Theising does not appear to show the spherical portion. The Examiner respectfully disagrees with applicant’s position. The drawings, including Figure 1, are part of the disclosure of Theising ‘446 and are considered, along with the other portions of the disclosure, to teach Theising’s invention to one skilled in the art. An analysis of the drawings disclosed by Theising ‘446, particularly Figure 1, supports the Examiner’s analysis. Applicant’s reference to “hindsight” is not understood since the described structure is shown.

In applicant’s remarks in section v of the response, applicant argues that “the Office action creates an additional ‘rotatable portion’ in the handle body 63 of Theising that is purported to be shown by a ‘cross-hatched portion surrounding the threaded portion in Figure 2.’” The Examiner respectfully disagrees with applicant’s position. No “rotatable portion” has been “created” by the Examiner. Rather, the cross-hatched section disclosed by Theising ‘446 is old in the art. The fact that it is not specifically described in this particular patent is not found to be persuasive that the part does not

exist. The rotatable portion clearly exists and can be viewed in cross section in Figures 2 and 3, or in plan in Figure 1.

In applicant's remarks in section vi of the response, it is respectfully submitted that applicant's analysis is not understood. There has been no assertion made that the portions 65 of Theising '446 rotate about an axis defined by the rotatable portion. Clearly, the portions 65 rotate about an axis that causes the rotatable portion, due to the eccentric position of the rotatable portion with respect to the curved edges or sides of portions 65, to move the rod.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (703)308-1404. The examiner can normally be reached on Wednesdays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on (703)308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Clark F. Dexter**  
**Primary Examiner**  
**Art Unit 3724**

cfd  
April 5, 2004